

WHEREAS, CP alleges that as a result of the Dispute it has incurred costs for, among other things, the characterization, storage, disposal, and replacement of contaminated soils, which characterization, storage, disposal, and replacement CP believes should have been performed by UPRR pursuant to the Environmental Provisions;

AND WHEREAS, the Parties desire to enter into this Agreement to ensure that contaminated soils are removed from the Property as expeditiously as is practicable, while fully and completely preserving the Parties' respective rights with respect to Excess Remediation Costs and under the Environmental Provisions for all soils disposed of (or replaced) pursuant to this Agreement;

NOW THEREFORE, in exchange for the mutual promises set forth herein, the Parties agree as follows:

I. Soil Removal and Remediation:

a. Soil Disposal. CP shall, Subject to Section 2 below, dispose of through Las Vegas Paving or another contractor agreed upon in writing by the Parties all soils stockpiled on the Property that contain total petroleum hydrocarbon levels in excess of one hundred (100) milligrams per kilogram ("*TPH Contaminated Soils*").

b. Soil Replacement. CP may, at CP's sole discretion, replace or caused to be replaced TPH Contaminated Soils disposed of under Section 1(a) above with clean soil. Furthermore, in the event TPH Contaminated Soils are replaced with clean soil, CP shall, to the extent practicable, note the location at which the clean soil is to be replaced, the quantity of soil to be replaced, and the cost of the clean soil.

c. Existing Stockpiles. Attached hereto as Exhibits 1 through 7 and incorporated herein by this reference are excavation soils reports dated May 19, 2008 (Report LVE8R143), June 19, 2008 (Report LVE8R166), June 27, 2008 (Report LVE8R173), July 15, 2008 (Report LVE8R191), August 18, 2008 (Report LVE8R213), September 12, 2008 (Report LVE8R233), and October 15, 2008 (Report LVE8R249) prepared by Kleinfelder, which detail, among other things, stockpile locations, source, sampling regimen, analytical results, and designation by Kleinfelder as "clean", "contaminated non-hazardous", or "not yet determined" (collectively the "*Soils Reports*"). UPRR represents and warrants that as of the Effective Date it has no basis upon which to contest the accuracy of the Soils Reports except as specifically set forth in the attached Schedule 1(c).

d. New Stockpiles. The Parties acknowledge that development of the Property is ongoing and that additional soil excavations, characterization, and stockpiling will occur during the Term. During the Term, CP shall cause Kleinfelder (or another qualified consultant agreed upon in writing by the Parties) to continue to document soil excavation, characterization, and stockpiling in a manner consistent with the Soils Reports. Such reports shall be included within the term Soils Reports as used herein. Additionally, for each new stockpile, the following information shall be estimated and/or recorded as appropriate:

- (i) The location, length, depth, width and purpose of the excavation from which the soil originated;